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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,185	11/29/2001	Albert Rabinovich	EH-10417	1030

30188 7590 10/23/2002

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EXAMINER

YEE, DEBORAH

ART UNIT	PAPER NUMBER
1742	21

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/683,185

Applicant(s)

RABINOVICH ET AL.

Examiner

Deborah Yee

Art Unit

1742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 to 20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11-21-01 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

Upon further consideration, the proposed restriction requirement during the telephone interview of October 10, 2002 has been withdrawn.

Claim Rejections - 35 USC § 102

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1 to 15 and 20 are rejected under 35 U.S.C. 102(a) as being anticipated by Bunge (US Patent No. 6,394,793B1).

Bunge on lines 8 to 67 of column 3 and lines 1 to 20 of column 4 discloses a method and apparatus for cooling heat-treated metallic work pieces by using a set of concentric air quench delivery tubes, for directing a compressed air quench onto specified areas of the work piece for cooling, which anticipates claims 1 to 15 and 20. Note that the prior art discloses a first set of tubes located above the work piece (first section) and a second set of tubes located below the work pieces(second section). The air quench tubes are placed in close proximity to the relatively thicker and more massive portion (first section) thereby increasing the cooling rate relative to the cooling rate of the thinner and less massive portions (second section).

Moreover, in regard to claims 8 to 14, the first cooling rate is supplemented with additional cooling by increasing the number of tubes or modifying the air pressure rate and positioning of cooling tubes so that the differential between the first cooling and second cooling rate is minimized, see lines 28 to 38, column 9.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16 to 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bunge (US Patent No. 6,394,793B1).

Bunge on lines 20 to 49, column 3, discloses an apparatus for quenching a material, the material having a first section and second section, wherein the apparatus comprises a support for receiving the material, and an outlet adjacent said support for impinging a cooling gas against the first section of the material, so that a cooling rate of the first section increases relative to a cooling rate of the second section. Moreover, Bunge discloses on lines 1 to 30, column 6, that distancing, shape, and positioning, and quantity of cooling tubes are critical to control cooling rate. Although Bunge does not disclose the actual numerical diameter and circumference size of the outlets or the spacing and number of outlets as recited by claims 16 to 19, such would not be a patentable difference since it would be a matter of routine optimization well within the skill of the artisan and productive of no new and unexpected results to determine tubular parameters for desired cooling rate.

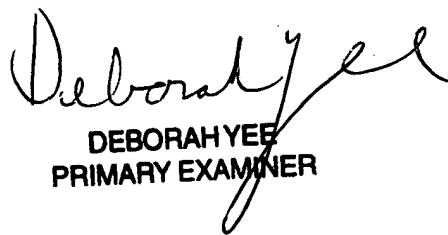
The unapplied references have been cited to further depict the state of the art in method and apparatus for cooling metal.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah Yee whose telephone number is 703-308-1102. The examiner can normally be reached on Monday-Friday from 6:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 703-308-1146. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-873-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

dy
October 16, 2002


DEBORAH YEE
PRIMARY EXAMINER